

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption of New)	NOTICE OF PUBLIC HEARING ON
Rules I through VII, the amendment)	PROPOSED ADOPTION,
of ARM 37.88.101, and the repeal of)	AMENDMENT, AND REPEAL
ARM 37.86.3701, 37.86.3702,)	
37.86.3705, 37.86.3706, 37.86.3707,)	
and 37.86.3715 pertaining to targeted)	
case management for youth with)	
serious emotional disturbance)	

TO: All Concerned Persons

1. On December 19, 2008, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the Wilderness Room of the Colonial Building, at 2401 Colonial Drive, Helena, Montana, to consider the proposed adoption, amendment, and repeal of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on December 8, 2008, to advise us of the nature of the accommodation that you need. Please contact Rhonda Lesofski, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406) 444-4094; fax (406) 444-1970; e-mail dphhslegal@mt.gov.

3. The rules as proposed to be adopted provide as follows:

RULE I TARGETED CASE MANAGEMENT SERVICES FOR YOUTH WITH
SERIOUS EMOTIONAL DISTURBANCE, DEFINITIONS As used in this chapter,
the following terms apply:

(1) "Case management services" means case management as defined in ARM 37.86.3301.

(2) "Department" means the Department of Public Health and Human Services.

(3) "Serious emotional disturbance (SED)" is defined in ARM 37.87.303.

(4) "Youth" is defined in ARM 37.87.102.

(5) The definitions in ARM 37.86.3301 also apply when not inconsistent with this subchapter.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-1-601, 53-1-602, 53-1-603, 53-2-201, MCA

RULE II TARGETED CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, ELIGIBILITY (1) If otherwise eligible for Medicaid services, youth with SED may receive medically necessary targeted case management services in the community setting as provided in this subchapter.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-1-601, 53-1-602, 53-1-603, 53-2-201, MCA

RULE III TARGETED CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, AUTHORIZATION

REQUIREMENTS (1) To be reimbursed, targeted case management services for youth with SED must be authorized by the department or its designee prior to the delivery of services.

(2) A case manager may request up to 120 units in an initial request for authorization.

(a) A unit of targeted case management services is equal to 15 minutes.

(3) An initial request for authorization must also include:

(a) demographic information about the youth;

(b) the name and mailing address of a responsible party, if any;

(c) the name of the provider and other provider information; and

(d) the youth's DSM-IV diagnosis code.

(4) A case manager may submit an unscheduled revision (continued stay) requesting authorization for continued services of up to 120 units more than the initial number of authorized units. The department or its designee will determine if further targeted case management services are medically necessary. The unscheduled revision request must include:

(a) documentation of an SED diagnosis and functional impairment;

(b) documentation of the need for continued targeted case management services;

(c) a case formulation that includes measurable case management goals and objectives;

(d) a complete list of other services currently in place; and

(e) a discharge plan.

(5) Targeted case management services requested in excess of 240 units in a single state fiscal year (July 1 – June 30) must be reviewed by the department or its designee to determine medical necessity. All the requirements of (4) also apply.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-1-601, 53-1-602, 53-1-603, 53-2-201, MCA

RULE IV TARGETED CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, PROVIDER REQUIREMENTS

(1) The requirements in this subchapter are in addition to those contained in provisions generally applicable to Medicaid providers.

(2) Targeted case management services for youth with SED must be provided by a licensed mental health center as defined in ARM 37.87.102. A mental health center must:

(a) have a current license endorsement permitting the mental health center to provide targeted case management services;

(b) be enrolled in the Montana Medicaid program as a targeted case management services provider; and

(c) contract with the department to provide targeted case management services for youth with SED.

(3) Targeted case management services for youth with SED must be supported by narrative documentation in accordance with ARM 37.85.414 record keeping requirements.

(4) Targeted case management services for youth with SED must be provided under a case management plan in accordance with ARM 37.86.3305.

(5) In addition, case management plans for youth with SED must be updated at least every 90 days and must include:

(a) an objective to serve each youth in the least restrictive environment;

(b) identification of the strengths of the youth and the youth's family;

(c) a crisis response plan;

(d) a plan for each youth age 16 1/2 and older to transition to adult mental health services; and

(e) a discharge plan from targeted case management services.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-1-601, 53-1-602, 53-1-603, 53-2-201, MCA

RULE V. TARGETED CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, REIMBURSEMENT (1) Targeted case management services for youth with SED will be reimbursed on a fee per unit of service basis. For purposes of this rule, a unit of service is a period of 15 minutes.

(a) A unit of service is a period of 15 minutes as follows:

(i) one unit of service is greater than or equal to 8 minutes and less than or equal to 23 minutes;

(ii) two units of service are greater than or equal to 24 minutes and less than or equal to 38 minutes;

(iii) three units of service are greater than or equal to 39 minutes and less than or equal to 53 minutes;

(iv) four units of service are greater than or equal to 54 minutes and less than or equal to 68 minutes;

(v) five units of service are greater than or equal to 69 minutes and less than or equal to 83 minutes;

(vi) six units of service are greater than or equal to 84 minutes and less than or equal to 98 minutes;

(vii) seven units of service are greater than or equal to 99 minutes and less than or equal to 113 minutes; and

(viii) eight units of service are greater than or equal to 114 minutes and less than or equal to 128 minutes.

(2) The department will pay providers of targeted case management services for youth with SED the lesser of:

(a) the provider's actual submitted charge for services; or

(b) the amount specified in the department's Medicaid Mental Health and Mental Health Services Plan, Individuals Under 18 Years of Age Fee Schedule, adopted at ARM 37.86.2207. A copy of the fee schedule may be obtained from the Department of Public Health and Human Services, Health Resources Division, Children's Mental Health Bureau, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(3) Targeted case management services may be billed to the department's fiscal agent using a CMS 1500 claim form. The provider must include the youth's DSM-IV diagnosis code on the claim form.

(4) Case managers may not bill for time spent writing progress notes. This activity is included in the rate for TCM services.

(5) Targeted case management services may be billed whether provided face-to-face or by telephone.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-1-601, 53-1-602, 53-1-603, 53-2-201, MCA

RULE VI CASE MANAGEMENT SERVICES, COVERED SERVICES

(1) Case management services include:

(a) comprehensive assessment and periodic reassessment of an eligible individual to determine service needs, including activities that focus on needs identification; and

(b) determination of the need for any medical, educational, social, or other services;

(c) these assessment activities include the following:

(i) taking youth history;

(ii) identifying the needs of the individual, and completing related documentation; and

(iii) gathering necessary information from other sources, such as family members, medical providers, social workers, and educators to make a complete assessment of the eligible individual.

(d) development and periodic revision of a specific care plan based on the information collected through the assessment that includes the following:

(i) specific goals and actions to address the medical, social and educational, and other services needed by the eligible individual;

(ii) activities such as ensuring the active participation of the eligible individual and working with the individual, or the individual's authorized health care decision maker and others to develop those goals; and

(iii) a course of action designed to respond to the assessed needs of the eligible individual.

(e) referral and related activities, such as making referrals and scheduling appointments for the individual, helping eligible individuals obtain needed services, helping to link the individual with medical, social and educational providers, or other programs and services that are capable of providing needed services to address identified needs and achieve goals specified in the care plan; and

(f) monitoring and follow-up activities, including activities and contacts necessary to ensure that the care plan is effectively implemented and adequately

addresses the needs of the eligible individual. This may be with the individual, family members, service providers, or other entities or individuals and may be conducted as frequently as necessary, including at least one annual monitoring review to help determine whether the following conditions are met:

- (i) services are being furnished in accordance with the individual's care plan;
 - (ii) services in the care plan are adequate to meet the needs of the individual;
- and
- (iii) changes in the needs or status of the eligible individual have been accommodated. Monitoring and follow-up activities include making necessary adjustments in the care plan and service arrangements with providers.

(2) Case management may include contacts with noneligible individuals that are directly related to the identification of the eligible individual's needs and care for the purpose of helping the individual access services, identifying needs and supports to assist the eligible individual in obtaining services, providing case managers with useful feedback, and alerting case managers to changes in the eligible individual's needs.

(3) Montana Medicaid does not reimburse any of the following activities for case management:

- (a) the direct delivery of a medical, educational, social, or other service to which an eligible individual has been referred;
- (b) transportation services;
- (c) Medicaid eligibility determination and redetermination activities; and
- (d) services provided by the case manager while the youth is in a psychiatric residential treatment facility in accordance with ARM 37.87.1222.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-1-601, 53-1-602, 53-1-603, 53-2-201, MCA

RULE VII MEDICAID MENTAL HEALTH SERVICES FOR YOUTH,
AUTHORIZATION REQUIREMENTS (1) Mental health services for a Medicaid youth under the Montana Medicaid program will be reimbursed only if the following requirements are met:

- (a) the youth, defined in ARM 37.87.103, has been determined to have a serious emotional disturbance as defined in ARM 37.87.303;
- (b) the department has determined prior to treatment on a case by case basis that treatment is medically necessary for early intervention and prevention of a more serious emotional disturbance; and
- (c) for prior authorized services, the serious emotional disturbance has been verified by the department or its designee.

(2) If a youth has a mental health diagnosis designated by the department, the youth is not required to have a serious emotional disturbance to receive the following services:

- (a) group outpatient therapy; and
- (b) the first 24 sessions per state fiscal year of individual and family outpatient therapy.

(3) Prior authorization by the department or its designee is required for the following services for a Medicaid recipient who is a youth:

(a) individual or family outpatient therapy services in excess of 24 sessions per state fiscal year, subject to such additional limitations for outpatient therapy services as may be set forth in the Medicaid Mental Health and Mental Health Services Plan, Individuals Under 18 Years of Age Fee Schedule adopted at ARM 37.86.2207. This rule does not apply to a session with a physician or midlevel practitioner for the purpose of medication management;

(b) targeted case management in excess of 120 units of service per state fiscal year;

(c) all outpatient therapy services that are provided concurrently with comprehensive school and community treatment (CSCT) described at ARM 37.86.2224, 37.86.2225, 37.106.1955, 37.106.1956, 37.106.1960, 37.106.1961, and 37.106.1965; or

(d) as provided for in other rules.

(4) The department may waive a requirement for prior authorization when the provider can document that:

(a) there was a clinical reason why the request for prior authorization could not be made at the required time; or

(b) a timely request for prior authorization was not possible because of a failure or malfunction of equipment that prevented the transmittal of the request at the required time.

(5) The prior authorization requirement shall not be waived except as provided in this rule.

(6) Under no circumstances may a waiver under (4) be granted more than 30 days after the initial date of service.

(7) Review of authorization requests by the department or its designee will be made with consideration of the clinical management guidelines (2008). A copy of the clinical management guidelines (2008) can be obtained from the department by a request in writing to the Department of Public Health and Human Services, Health Resources Division, Children's Mental Health Bureau, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(8) The department may review the medical necessity of services or items at any time either before or after payment in accordance with the provisions of ARM 37.85.410. If the department determines that services or items were not medically necessary or otherwise in compliance with applicable requirements, the department may deny payment or may recover any overpayment in accordance with applicable requirements.

(9) The department or its designee may require providers to report outcome data or measures regarding mental health services, as determined in consultation with providers and consumers.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

4. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.88.101 MEDICAID MENTAL HEALTH SERVICES FOR ADULTS.
AUTHORIZATION REQUIREMENTS (1) ~~Mental health services for a Medicaid youth under the Montana Medicaid program will be reimbursed only if the following requirements are met:~~

- ~~(a) the client has been determined to have a serious emotional disturbance as defined in ARM 37.86.3702, with the following exceptions identified in (1)(b);~~
- ~~(b) a youth is required to have a mental health diagnosis designated by the department, and not required to have a serious emotional disturbance to receive the following services:~~
 - ~~(i) group outpatient therapy; and~~
 - ~~(ii) the first 24 sessions per state fiscal year of individual and family outpatient therapy.~~
- ~~(c) the department has determined prior to treatment on a case by case basis that treatment is medically necessary for early intervention and prevention of a more serious emotional disturbance; and~~
- ~~(d) for prior authorized services, the serious emotional disturbance has been verified by the department or its designee.~~

~~(2) Prior authorization by the department or its designee is required for the following services for a Medicaid client who is a youth:~~

- ~~(a) individual or family outpatient therapy services in excess of 24 sessions per state fiscal year. Additional limitations for outpatient therapy services are set forth in the current fee schedule dated July 1, 2006. This rule does not apply to a session with a physician for the purpose of medication management;~~
- ~~(b) targeted case management in excess of 60 units of services per state fiscal year;~~
- ~~(c) all outpatient therapy services that are provided concurrently with comprehensive school and community treatment (CSCT) described at ARM 37.86.2224, 37.86.2225, 37.106.1955, 37.106.1956, 37.106.1960, 37.106.1961, and 37.106.1965; or~~
- ~~(d) as provided for in other rules.~~

~~(3) (1)~~ Mental health services for a Medicaid adult under the Montana Medicaid program will be reimbursed only if ~~the following requirement is met:~~

- ~~(a) the client is 18 or more years of age and has been determined to have a severe disabling mental illness as defined in ARM 37.86.3502;~~

~~(4) remains the same but is renumbered (2).~~

~~(5) (3)~~ Adult intensive outpatient therapy services may be medically necessary for a person with safety and security needs who has demonstrated the ability and likelihood of benefit from continued outpatient therapy. The person must meet the requirements of ~~(5)(a)~~ (3)(a) or (b). The person must also meet the requirements of ~~(5)(c)~~ (3)(c). The person has:

~~(a) through (c)(iv) remain the same.~~

~~(6) through (7) remain the same but are renumbered (4) through (5).~~

~~(8) (6)~~ Under no circumstances may a waiver under ~~(5) (4)~~ be granted more than 30 days after the initial date of service.

~~(9) (7)~~ Review of authorization requests by the department or its designee will be made with consideration of the clinical management guidelines (2006). A copy of the clinical management guidelines (2006) can be obtained from the

department by a request in writing to the Department of Public Health and Human Services, Addictive and Mental Disorders Division, Mental Health Services Bureau, 555 Fuller, P.O. Box 202905, Helena, MT 59620-2905 ~~(for adult services), or to the Department of Public Health and Human Services, Health Resources Division, Children's Mental Health Bureau, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951 (for youth services) or can be viewed on the department's web site at <http://www.dphhs.mt.gov/amdd/index.shtml>; or: <http://www.dphhs.mt.gov/mentalhealth/children/index.shtml>.~~

(10) and (11) remain the same but are renumbered (8) and (9).

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

5. The department proposes to repeal the following rules:

37.86.3701 CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, DEFINITIONS, is found on page 37-20691 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-6-101, MCA

37.86.3702 CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, ELIGIBILITY, is found on page 37-20695 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-6-101, MCA

37.86.3705 CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, SERVICE COVERAGE, is found on page 37-20701 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-113, MCA

37.86.3706 CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, SERVICE REQUIREMENTS, is found on page 37-20702 of the Administrative Rules of Montana.

AUTH: 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.86.3707 CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, PROVIDER REQUIREMENTS, is found on page 37-20703 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.86.3715 CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, REIMBURSEMENT, is found on page 37-20723 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-6-101, 53-6-113, MCA

6. The Department of Public Health and Human Services (the department) is proposing the adoption of new Rules I through VI pertaining to targeted case management services for youth 17 years of age and younger or up to 20 years of age and enrolled in secondary school with serious emotional disorders (SED); new Rule VII pertaining to Medicaid mental health services for youth, authorization requirements, and the amendment of ARM 37.88.101 pertaining to Medicaid mental health services, authorization requirements. The proposed new rules are intended to replace ARM 37.86.3701, 37.86.3702, 37.86.3705, 37.86.3706, 37.86.3707, and 37.86.3715 that would be repealed. ARM 37.88.101 will be amended to remove references to mental health services for youth. ARM 37.88.101 will pertain to mental health service authorization requirements for adults with severe disabling mental illness. This would continue the department's reorganization of its rules pertaining to mental health services for youth with SED into a single chapter, separating them from rules that pertain to adults with severe disabling mental illness (SDMI).

The department is proposing to increase the number of targeted case management (TCM) services units provided under prior authorization from 60 to 120.

The proposed changes are necessary to implement the reorganization and clarification of applicable rules for mental health services for youth with serious emotional disturbance. The proposed changes also reflect updated Medicaid primary care services rules.

No substantive change to the case management rules is intended, except as described below:

RULE I

This proposed new rule corresponds to current rule ARM 37.86.3701, except that definitions that will be relocated in ARM 37.86.3301, Medicaid Primary Care Services, Case Management Services, General Definitions, would be deleted to avoid duplication. Also, the remaining definitions from ARM 37.86.3701 would be updated to refer to definitions adopted elsewhere in ARM Title 37. The definitions in ARM 37.86.3301 would also apply when they do not conflict with the proposed new subchapter.

RULE II

MAR Notice No. 37-460

This would be a new rule stating the general policy that a youth with SED may receive medically necessary targeted case management services if otherwise eligible for Medicaid services.

RULE III

The department is also proposing an amendment to increase the allowable number of units on an initial prior authorization request for TCM services.

The department's experience indicates that most youths need 100 to 120 hours of TCM services every six months. At that point, a reviewer should determine the medical necessity of continued TCM services and grant additional units as necessary. The second authorization would cover TCM services to youth, most of whom do not use more than 240 units in a fiscal year. If TCM services are needed beyond 240, the proposal allows a third authorization. The department intends this proposal to reduce the number of reviews while avoiding unnecessary use of TCM services.

RULE IV

This proposed new rule corresponds to current rules ARM 37.86.3707, Case Management Services for Youth with Serious Emotional Disturbance, Provider Requirements which are proposed to be repealed. It would be updated to refer to ARM 37.85.414, Maintenance of Records and Auditing. In addition, the current practice of maintaining supporting documentation in a narrative case record would be specifically required. A case management plan in accordance with ARM 37.86.3305, Case Management Services, General Provisions, would have to be updated every 90 days. The proposed rule would specifically extend to case managers the department's objective to serve each youth in the least restrictive environment. A case management plan would also include mandatory identification of the strengths of the youth and the youth's family, a crisis response plan, a plan for each youth age 16 1/2 and older to transition to adult mental health services, and a discharge plan.

RULE V

This proposed rule corresponds to ARM 37.86.3715, Case Management Services for Youth with Serious Emotional Disturbance, Reimbursement which is proposed to be repealed. It would reflect current reimbursement requirements and would refer to the fee schedule adopted in 37.86.2207.

RULE VI

This proposed rule corresponds to ARM 37.86.3705, Service Coverage which is proposed to be repealed. It would include the same current service coverage provisions but in greater detail.

RULE VII

Proposed new Rule VII corresponds to the youth mental health services parts of current rule ARM 37.88.101, Medicaid Mental Health Services, Authorization Requirements for mental health services. ARM 37.88.101 would be amended by removing references to mental health service authorization requirements for youth with SED, but would retain the authorization requirements for adults with severe disabling mental illness.

ARM 37.88.101

The department is proposing to amend this rule to delete mental health service authorization requirements for youth with SED. Those requirements would be moved to new Rule VII. ARM 37.88.101 would retain the authorization requirements for adults with severe disabling mental illness.

ARM 37.86.3701, 37.86.3702, 37.86.3705, 37.86.3706, 37.86.3707, and 37.86.3715

These rules would no longer be necessary and would be repealed.

Options considered

The department considered all options, from eliminating the authorization requirement for TCM services to increasing the maximum number units on an initial prior authorization request to 240. It settled on the proposed 120 units as the best compromise between unrestricted access to TCM services and the department's duty to monitor utilization of services so that Medicaid benefits are used only when medically necessary.

Persons and entities affected

There are ten mental health centers with an endorsement to provide targeted youth case management and approximately 3000 youth receiving case management services in the state of Montana. All could be affected by the proposed changes.

Fiscal and benefit effects

The department does not expect the changes proposed in this notice to affect the level of TCM services Medicaid recipients would receive. No effects on state or federal Medicaid expenditures are expected.

7. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Rhonda Lesofski, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406)

444-4094; fax (406) 444-1970; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., December 24, 2008.

8. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

9. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 7 above or may be made by completing a request form at any rules hearing held by the department.

10. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

11. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

12. The department intends for the proposed amendment of these rules to be effective January 1, 2009. In the event the rules are amended retroactively no negative impact is anticipated.

/s/ John Koch
Rule Reviewer

/s/ Hank Hudson for
Joan Miles, Director
Public Health and Human Services

Certified to the Secretary of State November 17, 2008.